

alone. (b) And as this statute deprived infants of none of their privileges, it followed, that if any one of the claimants of the real estate proposed to be charged, was a minor, the parol should demur for the benefit of all until he attained his full age. So too, as to all other particulars, not expressly or necessarily embraced by this statute, the then existing law remained in all respects unaltered.

After which it was declared by an act of Assembly, that persons under age seised of any lands chargeable with the payment of money; and therefore, *liable to a decree for a sale*, should by direction of the Court of Chancery, on the petition of the person entitled to any money with the payment whereof the said lands were chargeable, convey and assure such lands in such manner as the court should direct to any other person; and such conveyance should be as good and effectual as if such infants were at the time of full age: provided, that no direction, as aforesaid, should be given in case of any infants seised of any lands subject to the payment of money, unless it should appear that the *guardian* of such infant *had consented* thereunto; and also, that such infant would not sustain any inconvenience from such direction. (c) Under this law, which relates only to proceedings in Chancery, any lands, subject to the payment of debts, held by an infant, might have been sold, with the consent of his guardian, without allowing to the infant the privilege of having the parol to demur until he attained his full age. But this act contains not the slightest allusion to any distinction between the application of the real and personal estate of a deceased debtor to the payment of his debts; nor is susceptible of being so construed as to have any bearing injurious to the legal rights of his creditors; or so as to make the least change in that equity, which arises in a creditor's suit, between the real and personal representatives of the deceased, by which the heirs are allowed, for their own peculiar benefit, without prejudice to creditors, to have the personal estate first applied in payment of his debts. In these respects the then existing principles of law and equity have not been altered or affected in any way whatever by this act of Assembly.

By the act of Assembly which prescribes the mode of reviving actions at common law, which may have abated by the death of

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(b) *Cox v. Callahan*, 2 Bland, 51, note; *Long v. Baker*, 2 Haywood, 123.—(c) 1773, ch. 7; 1778, ch. 22; *Prutzman v. Pitesell*, 3 H. & J. 90; *Partridge v. Dorsey*, 2 H. & J. 320. 305: *Pue v. Dorsey*, 1 Bland, 139. note